



22 OCT 2008

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In re Application of LEXOW et al. :
Application No.: 10/553,113 :
PCT No.: PCT/GB04/01673 : DECISION ON
Int. Filing: 16 April 2004 :
Priority Date: 16 April 2003 : PETITION
Attorney Docket No.: 30986/41551 :
For: METHOD FOR CHARACTERISING POLY- : UNDER 37 CFR 1.47(a)
NUCLEOTIDES :

This is a decision on applicant's Petition Under 37 CFR 1.47(a) and 35 U.S.C. 116 filed in the United States Patent and Trademark Office on 22 April 2008. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 22 January 2008, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 22 April 2008, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Erlend Ragnhildstveit alleging that Mr. Ragnhildstveit refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-

signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant has satisfied Item (1) with the requisite petition fee and Item (3) with the last known address of inventor Ragnhildstveit.

With respect to Item (2), Petitioner states that a copy of the subject application, a declaration and an assignment were mailed to the nonsigning inventor on 13 December 2006. A copy of the cover letter was included. However, the letter states only that a "copy of the Specification and Assignment and Declaration & Power of Attorney" was included. Nonetheless, the statement by Mr. Lexow is taken to show that a complete copy of the subject application (specification, claims and drawings) were forwarded to the nonsigning inventor. If this is not the case, petitioners must promptly notify this office. Mr. Lexow also claims that he has not received a response from Mr. Ragnhildstveit to his request. This conduct is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets Item (2).

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of himself and the nonsigning joint inventor. The declaration, submitted on 22 April 2008, is executed by the joint inventor, provides the residence, address and citizenship of the inventors and meets the requirements of 37 CFR 1.497(a) and (b).

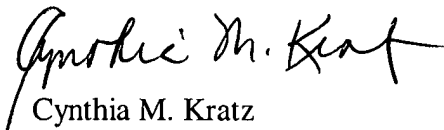
Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 22 April 2008. The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a date of 22 April 2008 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



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Dear Mr. Ragnhildstveit:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.


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